

Small Business Administration

§ 134.226

may purchase a transcript, at its own expense, from the recording service.

§ 134.222 Oral hearing.

(a) *Availability.* A party may obtain an oral hearing only if:

(1) It is required by regulation; or

(2) Following the motion of a party, or at his or her own initiative, the Judge orders an oral hearing upon concluding that there is a genuine dispute as to a material fact that cannot be resolved except by the taking of testimony and the confrontation of witnesses.

(b) *Place and time.* The place and time of oral hearings is within the discretion of the Judge, who shall give due regard to the necessity and convenience of the parties, their attorneys, and witnesses. The Judge may direct that an oral hearing be conducted by telephone.

(c) *Public access.* Unless otherwise ordered by the Judge, all oral hearings are public.

(d) *Payment of subpoenaed witnesses.* A party who obtains a witness's presence at an oral hearing by subpoena must pay to that witness the fees and mileage costs to which the witness would be entitled in Federal court.

(e) *Recording.* Oral hearings will be recorded verbatim. A transcript of a recording may be purchased by a party, at its own expense, from the recording service.

[61 FR 2683, Jan. 29, 1996, as amended at 63 FR 35766, June 30, 1998; 70 FR 17587, Apr. 7, 2005; 75 FR 47442, Aug. 6, 2010]

§ 134.223 Evidence.

(a) *Federal Rules of Evidence.* Unless contrary to a particular rule in this part, or an order of the Judge, the Federal Rules of Evidence will be used as a general guide in all cases before OHA.

(b) *Hearsay.* Hearsay evidence is admissible if it is deemed by the Judge to be relevant and reliable. Weight to be afforded hearsay evidence is at the discretion of the Judge.

[61 FR 2683, Jan. 29, 1996, as amended at 75 FR 47442, Aug. 6, 2010]

§ 134.224 [Reserved]

§ 134.225 The record.

(a) *Contents.* The record of a case before OHA will consist of all pleadings, motions, and other non-evidentiary submissions, all admitted evidence, all orders and decisions, and any transcripts of proceedings in the case.

(b) *Closure.* The Judge will set the date upon which the pre-decisional record of the case will be closed, and after which no additional evidence or argument will be accepted.

[61 FR 2683, Jan. 29, 1996, as amended at 75 FR 47442, Aug. 6, 2010]

§ 134.226 The decision.

(a) *Contents.* (1) Following close of record, the Judge will issue a decision containing findings of fact and conclusions of law, the reasons for such findings and conclusions, and any relief ordered. The record will constitute the exclusive basis for a decision.

(2) An OHA decision creates precedent, unless:

(i) Another regulation in this chapter applicable to a specific type of appeal provides that the OHA decision does not create precedent; or

(ii) the decision is designated as one not to be cited as precedent.

(3) A summary decision containing only cursory findings of fact and conclusions of law may be issued only if the Judge finds a full decision will not advance understanding of Federal statutes or applicable regulations, policies, or procedures and the underlying facts and law are of a routine and non-complex nature.

(b) *Time limits.* Decisions pertaining to the collection of debts owed to SBA and the United States under the Debt Collection Act of 1982, the Debt Collection Improvement Act of 1996, and Part 140 of this chapter must be made within 60 days after a petition is filed. Time limits for decisions in other types of cases, if any, are indicated either in the applicable program regulations or in other subparts of this part 134.

(c) *Service.* OHA will serve a copy of all written decisions on:

(1) Each party, or, if represented by counsel, on its counsel; and